

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, : Case No. 1:20-cr-00142-1  
Plaintiff, :  
- v - :  
ALEXANDER SITTENFELD, a/k/a :  
"P.G. Sittenfeld," :  
Defendant. :  
: Jury Trial, Day 12  
: Friday, July 8, 2022  
: 1:15 p.m.  
: Cincinnati, Ohio

~~REDACTED PRE AND POST VERDICT HEARING~~

BEFORE THE HONORABLE DOUGLAS R. COLE, DISTRICT JUDGE

For the Plaintiff: EMILY N. GLATFELTER, ESQ.  
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\* \* \*

P R O C E E D I N G S

(In open court at 1:19 p.m.)

\* \* \*

THE COURT: We're here on the record in chambers in  
the matter of United States of America versus Sittenfeld.  
It's case number 1:20-cr-142.

Could I have counsel please enter their appearances for the record.

MR. C. MATTHEW RITTGERS: Charlie M. Rittgers for  
P.G. Sittenfeld.

MR. C. HENRY RITTGERS: Charlie H. Rittgers for  
P.G. Sittenfeld.

MR. SCHUETT: Neal Schuett for P.G. Sittenfeld.

MS. GLATFELTER: Emily Glatfelter for the United States.

MS. GAFFNEY PAINTER: Megan Gaffney Painter for the  
United States.

THE COURT: So there are two things I wanted to discuss. First, as I mentioned when I asked to have an in person meeting, an issue has come up. It's a juror issue that I want to talk about.

And second, since we've reached out to contact you, we've received word from the jury that they have a verdict in the matter.

So with that by way of background, I received word this

1 morning about 10 minutes before I called you guys that one of  
2 the jurors was posting on social media about her experience as  
3 a juror.

4 She's posted only to friends, so I didn't have any  
5 ability to directly access it, but it turns out that a court  
6 employee is a friend of hers and so had seen these posts. So  
7 I asked to have screen shots made of the posts. So I have  
8 copies for each side of the posts that were made.

9 You'll see some of the posts have "comments" indicated on  
10 them, so I reached further back and asked for the person to  
11 look at the comments and make screen shots of the comments.

12 So these are the comments that go with -- where a given  
13 post has a comment underneath it, those were the contents of  
14 the comments, so you can line it up with a given post. And I  
15 put them in date order. You'll see the date is on each one of  
16 them.

17 The only one that was done during deliberations, I  
18 believe, is the one done on the last page, the comment,  
19 "Number █ you're on my damn nerves," with four comments  
20 underneath that. And I believe the four comments underneath  
21 that would be the page that I just handed you, the first page  
22 of that.

23 MR. C. MATTHEW RITTGERS: Do you know who █  
24 is?

25 THE COURT: The juror is █ would be

1       one of Juror [REDACTED] friends. So this is in response, I  
2 believe, to where [REDACTED] posts, "Number [REDACTED], you're on my damn  
3 nerves" on the last page of the other thing that your dad has  
4 right now, and it says four comments underneath.

5           And I believe the four comments are probably the one  
6 that's clipped off at the top about, "Brings back memories."

7           And then I believe one of [REDACTED] friends, maybe [REDACTED]  
8 [REDACTED] responds, "There's always at least one." And then [REDACTED]  
9 [REDACTED] has her response, and then [REDACTED] has her response, and  
10 that would be the way I would read this.

11          I thought I was fairly clear in my admonition about  
12 communication, included posting on social media of any kind,  
13 but...

14           MS. GLATFELTER: I'm sorry if I didn't catch this the  
15 first time, but this came to light because another juror  
16 reported it or because a courthouse employee?

17           THE COURT: No. Because a courthouse employee is  
18 friends with [REDACTED]

19           MS. GLATFELTER: Got it. I didn't know if --

20           THE COURT: -- so [REDACTED] posted this, not publicly.  
21 Like I can't go on Facebook to [REDACTED] profile and see this.  
22 It was a friends only post.

23           But it turns out that a court employee is one of [REDACTED]  
24 [REDACTED] friends and saw it, brought it to his supervisor's  
25 attention this morning, who then brought it to Jenn Webster's

1       attention within about five minutes, who then within about  
2       five minutes brought it to my attention, who within about ten  
3       minutes brought it to your attention. So we have been trying  
4       to move the information promptly out.

5                    MR. C. MATTHEW RITTGERS: So, Your Honor, this was  
6       printed at 12:24 today?

7                    THE COURT: Yes. Well, no. I believe the 12:24  
8       referred to the time at which the screen shot was snapped.

9                    So I received these this morning, the posts --

10                  MR. C. MATTHEW RITTGERS: Gotcha.

11                  THE COURT: -- and I noted somebody had comments, or  
12       Scott noted somebody had comments. And I went back and said  
13       would the person who did these also pull up the comments and  
14       send those. And I received those about 12:30 this afternoon.

15                  MR. C. MATTHEW RITTGERS: So this 12:24 probably  
16       corresponds to today, we guess?

17                  THE COURT: Yes, although the comments, I believe,  
18       are --

19                  MR. C. MATTHEW RITTGERS: 17 hours.

20                  THE COURT: Right. 17 hours, so I believe 12:24 -- I  
21       believe what this person did is found their phone, pulled up  
22       the comments and then did a screen shot, so you're seeing  
23       their iPhone.

24                  MR. C. MATTHEW RITTGERS: So this would have been at  
25       like 7:00 p.m. last night on the comments, something like

1       that?

2           THE COURT: Something like that, yes.

3           MR. C. MATTHEW RITTGERS: Is it a unanimous verdict?

4           THE COURT: I don't know. I just have been told  
5       there is a verdict. I would assume -- I mean -- you mean the  
6       same as to all counts? I don't know. I assume it's unanimous  
7       as to whatever each of the counts, but I have no idea.

8           Does the government have a view?

9           MS. GLATFELTER: I think we would like to consult  
10      with our office.

11          MS. GAFFNEY PAINTER: This is uncharted territory.

12          THE COURT: It is for me as well. Does the defense  
13      have a view?

14          MR. C. MATTHEW RITTGERS: We can also withhold it.  
15          Is that all right, Judge?

16          THE COURT: The jury did report they have a verdict  
17      about 45 minutes ago at this point, so...

18          MS. GLATFELTER: I'd like to consult with our office  
19      to find out if we should take the verdict, first of all, to  
20      see if there is any question about --

21          THE COURT: The Court has done some preliminary  
22      research, and I believe -- well, I don't want -- I don't know.

23          MR. C. MATTHEW RITTGERS: Well, do you mind sharing,  
24      just it will help us --

25          THE COURT: I don't know that this is a basis for a

1       mistrial. The reason I say that is because it does not  
2 suggest to me that this person had access to any evidence or  
3 information from outside the courtroom.

4           Even the comment from her friend was not a comment on the  
5 evidence, nor at any point did she share the evidence or her  
6 views about the evidence. She was just sharing her concerns  
7 about other jurors.

8           We may want to consider the possibility of a *Remmer*  
9 hearing after, but I believe that would be something we would  
10 do after the jury comes in.

11          MR. C. MATTHEW RITTGERS: What is that, Your Honor?

12          THE COURT: A *Remmer* hearing is a hearing into  
13 potential juror misconduct. So I think the comments here and,  
14 in particular, the comment about, "She shouldn't be on the  
15 jury because she hates anyone who shares this profession"  
16 could give rise to questions about, you know, what sort of  
17 pressure was used to overcome that, if it ends up being a  
18 verdict one way or the other or, you know, is she biased and  
19 shouldn't have been on the jury? I guess we could explore  
20 that down the road.

21          Obviously -- well, obviously is a strong word. I believe  
22 that Juror Number █ engaged in misconduct by publishing even a  
23 limited public commentary about any aspect of this case, but  
24 I'll note that, as I said, she didn't comment on any of the  
25 evidence, she didn't comment on any of the witnesses.

1           I don't think there's anything necessarily inappropriate  
2 about her checking in at the courthouse or sharing the fact  
3 that the trial has ended for the week, or those types of  
4 things. I'm a little more leery about her comments about  
5 other jurors.

6           But I do not believe -- we looked and just pulled a  
7 couple cases. *United States of America versus Fumo*. It's  
8 655 F.3d 288, Third Circuit case.

9           And we have another one, Jacob? You said we had another  
10 case, right, more recently, or is this the one that does the  
11 pushing it out?

12           MR. C. MATTHEW RITTGERS: F-u-m-o?

13           THE COURT: 655 F.3d 288. Is this the one that makes  
14 a distinction between pushing --

15           THE LAW CLERK: The last one I sent. It's the  
16 District of South Carolina case, but I can look. I sent you a  
17 couple more things, and I also can look at those now on my  
18 phone.

19           MR. C. MATTHEW RITTGERS: When she's referring --  
20 [REDACTED] is referring to Number [REDACTED] I'm assuming she's referring  
21 to another juror?

22           THE COURT: Juror Number [REDACTED] I believe. So she's  
23 Juror Number [REDACTED] the juror who is posting. And she seems  
24 mostly to be posting about Juror Number [REDACTED] and Juror Number [REDACTED].

25           MR. C. MATTHEW RITTGERS: And Juror Number [REDACTED] she

1 "wishes her tongue would fall out"?

2 THE COURT: I don't think it's going to reflect well  
3 on Juror Number █ when this all comes out, but...

4 The other case you may want to look at is 2018 --

5 MR. C. MATTHEW RITTGERS: Juror Number █ is in this  
6 comment where she said, "Honestly --"

7 THE COURT: -- WL 11337365.

8 MR. C. MATTHEW RITTGERS: WL 11337365?

9 THE COURT: 2018 Westlaw 11337365. We've had about  
10 25 minutes to do research, so...

11 MS. GLATFELTER: Some of the comments, this does  
12 appear to be the only one during deliberations.

13 THE COURT: During deliberations, yes. The only post  
14 during deliberations appears to be, "Number █ you're on my  
15 damn nerves."

16 MS. GLATFELTER: Yeah.

17 THE COURT: And then the first page of these comments  
18 appear to be the four comments that are reflected there.

19 MR. C. MATTHEW RITTGERS: "Number █ you're on my  
20 damn nerves" would be on?

21 THE COURT: On the last page of the first packet I  
22 gave you, the last page.

23 MR. C. MATTHEW RITTGERS: 18 hours ago, I gotcha,  
24 which corresponds back to --

25 THE COURT: To these comments.

1                   MR. C. MATTHEW RITTGERS: -- those conversation  
2 comments. Gotcha.

3                   THE COURT: Yes. I believe the other comments go to  
4 earlier posts.

5                   MR. C. MATTHEW RITTGERS: Your Honor, it looks like,  
6 if you look at the comment page, there are four comments, but  
7 the first one appears to be cut off on this.

8                   THE COURT: Right. I agree. It's been a little bit  
9 of a scramble.

10                  MR. C. MATTHEW RITTGERS: I understand.

11                  THE COURT: I can try to get more fulsome. One of  
12 these has 20 comments, and I don't see anything here that  
13 corresponds to 20 comments.

14                  So on June 23rd, there's a post about, "What a great  
15 learning experience jury duty has given me." Then underneath  
16 it says it has 20 comments. I haven't gotten those yet.

17                  MR. C. MATTHEW RITTGERS: Seven comments on there,  
18 five --

19                  THE COURT: I'm trying to get the information as  
20 quickly as I can.

21                  MS. GLATFELTER: The one that's cut off is by a  
22 different person, though.

23                  THE COURT: Yes, it is.

24                  MR. C. MATTHEW RITTGERS: "Tongue falling out" has  
25 five comments.

1 MS. GLATFELTER: Your Honor, we would ask for a brief  
2 adjournment so that we can go --

3 THE COURT: How long?

4 MS. GAFFNEY PAINTER: Fifteen minutes.

5 MS. GLATFELTER: Fifteen minutes.

6 THE COURT: Okay. We are going to take a recess for  
7 15 minutes. We've got to tell the jury something, so just --

8 COURTROOM DEPUTY: I instructed Jenn to let them know  
9 that we are organizing, and that they need to just wait and be  
10 patient.

11 THE COURT: Okay. And, unfortunately, you may have  
12 seen one of our CSOs opened the courtroom and swept it, and  
13 was asked by a reporter for The Enquirer whether a verdict was  
14 in, and without thinking, he said yes.

15 MR. C. MATTHEW RITTGERS: We saw it on the news.

16 MR. C. HENRY RITTGERS: Yeah. Before we knew about  
17 it, it was all over the news.

18 MS. GAFFNEY PAINTER: Before any of us knew about it.

19 THE COURT: Almost before I knew about it, but...

20 MR. C. MATTHEW RITTGERS: Judge, thanks for the  
21 explanation. I was just curious.

22 THE COURT: But that situation has been addressed, I  
23 hope.

24 MS. GLATFELTER: So we'll be back here at 1:45?

25 THE COURT: Very good. Thank you.

1 (Brief recess.)

2 THE COURT: We're back on the record in chambers.

3 It's 1:48.

4 Ms. Gaffney Painter, have you had an opportunity to  
5 consult with your office, or Ms. Glatfelter, whoever is  
6 taking?

7 MS. GAFFNEY PAINTER: Yes. We consulted very briefly  
8 with our office and did some very preliminary research on the  
9 subject.

10 THE COURT: Mr. Rittgers, have you had an opportunity  
11 to discuss it with your colleagues?

12 MR. C. MATTHEW RITTGERS: Briefly. Yes, Your Honor.

13                           THE COURT: All right. So thoughts about how we  
14 should proceed at this juncture?

15 MS. GAFFNEY PAINTER: First, I found a case out of  
16 the Southern District of New York District Court case  
17 involving -- now this was post verdict. There were  
18 allegations of juror misconduct, including social media posts  
19 during and after the trial.

Again, I'm not prepared to give a thoughtful exegesis on this, but I can give you a cite, in case it would be helpful. It's 433 F. Supp. 3d 468, district court case about this.

23 It sounds like the major concerns with this sort of thing  
24 is what you highlighted before, were they relying on  
25 information outside of what was presented to them, did anyone

1 have like a real immovable bias against the defendant that  
2 would have prejudiced his rights in any way.

3 I believe, based on -- don't let me speak over you. What  
4 would you --

5 MS. GLATFELTER: I think our inclination is to take  
6 the jury verdict, but we want to be sure that both sides are  
7 able to preserve challenges based on misconduct. We're  
8 concerned about whether double jeopardy attaches.

9 So, for example, obviously, if it's a guilty verdict, the  
10 defendant maintains that and would be able to challenge this.

11 If it's an acquittal, what rights attach to the  
12 government if by way we take a verdict now and then decide  
13 there's juror misconduct, and so that's the government's main  
14 concern.

15 THE COURT: Yeah. I appreciate that. I don't know  
16 the answer to that for sure. I mean, I think you would be --  
17 it would have to be such a high showing of juror misconduct  
18 that, essentially, it wasn't a trial and jeopardy never  
19 attached.

20 And I haven't done any research on that, but I would  
21 think that would be a nearly insurmountable hurdle. So I  
22 understand your concern.

23 As is often the case in criminal cases, there's a little  
24 bit of a one-way street where defendants have an ability to  
25 challenge --

1 MS. GLATFELTER: Absolutely.

2 THE COURT: -- a conviction, but the government  
3 doesn't have really the ability to challenge an acquittal, but  
4 I don't really know how to cure that at this point.

5 I mean, I would say that, to the extent there's any  
6 indication of bias in any of the comments, it would seem to be  
7 bias in favor of a conviction, not against it, so I don't --  
8 and I don't know that it rises to the level of that anyway,  
9 you know. But certainly, that would be an issue that I'm sure  
10 would be briefed after a verdict if there's a finding of  
11 guilty.

12 MS. GLATFELTER: Yes. I didn't know if there was an  
13 ability to take it as a conditional verdict.

14 THE COURT: I don't believe there is.

15 MS. GLATFELTER: Okay.

16 MR. C. HENRY RITTGERS: The *Remmer* hearing, would we  
17 have that right after the verdict?

18 THE COURT: I don't know. That's a great question.  
19 I'm very much in unchartered territory at this point.

20 MR. C. HENRY RITTGERS: Well, the one thing that  
21 concerns me, I think it was Juror Number █, does not like any  
22 politician.

23 THE COURT: Sure.

24 MR. C. HENRY RITTGERS: And if we have such a  
25 hearing, I'd like to hear from her, since she's supposed to be

1 unbiased --

2 THE COURT: Right.

3 MR. C. HENRY RITTGERS: -- in the event that there's  
4 a guilty verdict.

5 THE COURT: Yeah. In the event there's a guilty  
6 verdict, I think it would make some sense to keep Juror  
7 Number █ and Juror Number █, after we release the other  
8 jurors, and talk to them, on the record, for purposes of a  
9 hearing.

10 I know that it's a little bit difficult, since the  
11 parties haven't had an opportunity to prepare for that, and I  
12 guess we could leave open the possibility that we could do  
13 further inquiry down the road, but I can appreciate the desire  
14 to get information on the record. And it will be helpful in  
15 posttrial motions.

16 Mr. Rittgers?

17 MR. C. MATTHEW RITTGERS: I'm in the same such  
18 position as the government. I don't know if we should object  
19 now, because we haven't had the hearing. We obviously don't  
20 know what the verdict is.

21 I don't know about this bias which is now expressly  
22 stated in Juror Number █ opinion, at least about Juror  
23 Number █, so I just somehow want to preserve that for the  
24 record.

25 THE COURT: Well, are you moving for a mistrial based

1       on the information in front of you or not?

2                   MR. C. HENRY RITTGERS: Yes. To preserve the record,  
3 we are.

4                   MR. C. MATTHEW RITTGERS: Because it indicates Juror  
5 Number █ is biased and shouldn't have been on the jury.

6                   MR. C. HENRY RITTGERS: If we have to do it now, yes.

7                   THE COURT: So the defense is moving for a mistrial.  
8 What is the government's position on a mistrial?

9                   MS. GLATFELTER: We would oppose. The record right  
10 now is not strong enough for a mistrial. We can remedy the  
11 situation through a post-verdict hearing where the Court  
12 inquires into this which, I think, the case law does support.

13                  THE COURT: Okay. The Court is going to overrule the  
14 request for a mistrial. It's the Court's intent to take the  
15 verdict.

16                  I don't believe, based on the information we have, that  
17 there's a sufficient basis not to move forward with taking the  
18 verdict.

19                  The case law that I've identified so far suggests that  
20 these types of issues can be addressed on a post-verdict basis  
21 and so, you know, this will be without prejudice to the  
22 defendant's ability to further explore and brief issues  
23 related to juror misconduct after the verdict comes in.

24                  MR. C. MATTHEW RITTGERS: Thank you, Your Honor.

25                  THE COURT: Anything else you want to put on the

1 record before we take a verdict?

2 MS. GLATFELTER: No, Your Honor.

3 MS. GAFFNEY PAINTER: No. Thank you.

4 THE COURT: Let's assemble in the courtroom, please.

5 (Brief recess.)

6 \* \* \*

7 THE COURT: We're on the record in chambers post  
8 verdict, and could I just have everybody enter their  
9 appearances for the record.

10 MR. C. HENRY RITTGERS: Charlie H. Rittgers for  
11 P.G. Sittenfeld.

12 MR. C. MATTHEW RITTGERS: Charlie M. Rittgers for  
13 P.G. Sittenfeld.

14 MR. SCHUETT: Neal Schuett for Mr. Sittenfeld.

15 MR. LAZARES: Gus Lazares for Mr. Sittenfeld.

16 MS. GLATFELTER: Emily Glatfelter for the United  
17 States.

18 MS. GAFFNEY PAINTER: Megan Gaffney Painter for the  
19 United States.

20 THE COURT: And we're here with Juror Number █. As I  
21 told you, Juror Number █, it came to the Court's attention  
22 late this morning that there were some social media postings  
23 that you'd made or appeared to have made about your  
24 participation in the trial, and counsel had a few follow-up  
25 questions about that.

1           I'm going to tell you right upfront, I don't want you to  
2 testify about conversations you had in the jury room, but they  
3 are allowed to inquire about whether you believe extraneous  
4 influences or other jurors' access to extraneous influences  
5 may have, in some way, impacted things, and ask you questions  
6 about that. Do you understand what I'm saying?

7           JUROR NO. █: Yes.

8           THE COURT: I'm going to ask Scott to swear you in.

9           (JUROR NUMBER █ sworn.)

10           THE COURT: Mr. Rittgers?

11           MR. C. MATTHEW RITTGERS: Hi. You're not in trouble.

12           JUROR NO. █: Okay.

13           MR. C. MATTHEW RITTGERS: That's why we're not doing  
14 this in the courtroom. And I know it's nerve racking. I'm  
15 sorry to put you through this, but I just wanted you to know  
16 you're not in trouble, and that's why the judge is doing it in  
17 chambers.

18           JUROR NO. █: Okay.

19           MR. C. MATTHEW RITTGERS: Can you just tell us  
20 about -- I mean, we know the Facebook post --

21           JUROR NO. █: Yeah. He told me.

22           MR. C. MATTHEW RITTGERS: And so that was just  
23 brought to our attention by the Court recently, maybe like an  
24 hour or two ago.

25           JUROR NO. █: Okay.

1                   MR. C. MATTHEW RITTGERS: So that's what the  
2 questions are going to be about.

3                   And as the judge indicated, we're not asking about  
4 conversations within the room.

5                   But on Facebook, you did post some things about your  
6 service, and you read the comments that people posted back to  
7 you, right?

8                   JUROR NO. █: I honestly haven't seen them about  
9 that.

10                  MR. C. MATTHEW RITTGERS: May I show them?

11                  THE COURT: Yes.

12                  JUROR NO. █: I'll be honest, I haven't seen them.

13                  MR. C. MATTHEW RITTGERS: These are just some of  
14 them. And these are your comments, I will call you Juror █.  
15 I won't call you by name, but these are the Juror █ comments.

16                  And there are comments through here, but these are  
17 comments that, I believe, are associated with this post, which  
18 was made, I think, last night, July 7th, around 7:00. I  
19 believe --

20                  JUROR NO. █: Yeah.

21                  MR. C. MATTHEW RITTGERS: -- those comments are  
22 through this one?

23                  JUROR NO. █: Uh-huh.

24                  MR. C. MATTHEW RITTGERS: And so -- and there are a  
25 lot of comments. This is your main page. This is the way I

1 understand it. This is what was given to me, and some of  
2 these have lots of comments on them.

3 JUROR NO. █: Uh-huh.

4 MR. C. MATTHEW RITTGERS: And the one that we have,  
5 the comment section that's printed out, it indicates that you  
6 were responding to some comments based off your comment.

7 JUROR NO. █: Yeah.

8 MR. C. MATTHEW RITTGERS: So I guess my first  
9 question is, is it you -- you made this post, "Number █  
10 you're on my damn nerves"?

11 JUROR NO. █: Uh-huh.

12 MR. C. MATTHEWS RITTGERS: And that would have been  
13 last night, right?

14 JUROR NO. █: Yes.

15 MR. C. MATTHEW RITTGERS: And then there are four  
16 comments that I see in the screen shot. And some of those  
17 were your comments commenting off of other people's comments?

18 JUROR NO. █: Yeah, I just -- someone said, "There's  
19 at least one in every group." And then I just mentioned,  
20 basically, that my take on it was -- I honestly didn't feel --  
21 and I hope I can say this, but she shouldn't have been on the  
22 jury, in my opinion, just because I feel like she has a deep  
23 hatred for politicians and people in office just by some of  
24 the -- I mean like the comments.

25 THE COURT: Yeah. You can't testify about what

1       happened in the jury room. So to the extent you believe she  
2       was influenced by extraneous information, information she  
3       hadn't heard at trial, and you have some basis for that, you  
4       can share what extraneous information you believe she was  
5       relying on.

6                  JUROR NO. █: Yeah. I just think that she doesn't  
7       like politicians, that's all. And that's what that comment  
8       was about.

9                  MR. C. MATTHEW RITTGERS: So what the judge -- the  
10      judge doesn't want you to say if she said something like I  
11      read something --

12                 JUROR NO. █: No.

13                 MR. C. MATTHEW RITTGERS: -- or I had an ex-husband,  
14      or --

15                 JUROR NO. █: No.

16                 MR. C. MATTHEW RITTGERS: So when you made these  
17      posts, I assume off some of them -- for example, and I'll show  
18      you like this one on June 23rd, where you talked about  
19      experience, there were 20 different comments. I don't have  
20      those, but I assume none of those comments were other jurors'  
21      comments?

22                 JUROR NO. █: No. Huh-uh.

23                 MR. C. MATTHEW RITTGERS: So this is all people who  
24      were not jurors and they were commenting. And for some of  
25      those -- did you respond back to some of those comments?

1                   JUROR NO. █: I didn't think about the jury. No, I  
2 didn't answer any questions. No one knew what, you know, case  
3 I was on, so I never mentioned what case I was on and what  
4 jury I was on.

5                   I just mentioned that it was hard for me to know that  
6 someone was -- I don't think I put anything in there. I mean,  
7 I can pull it up and see.

8                   MR. C. MATTHEW RITTGERS: Is that all right, Judge?  
9 I mean, can she look?

10                  THE COURT: Sure.

11                  MR. C. MATTHEW RITTGERS: Someone posted like an  
12 article about -- P.G. Sittenfeld's name was mentioned on a  
13 couple of these which I saw -- which, again, you're not in  
14 trouble at all, but this was a comment about Juror Number █.

15                  JUROR NO. █: She talks a lot.

16                  MR. C. MATTHEW RITTGERS: And then there are five  
17 comments within that. Someone posted something --

18                  JUROR NO. █: Someone did say, "Good old P.G.," or  
19 something. And then I deleted it. I didn't respond back to  
20 it. I think I just hid it, not delete it, just so they didn't  
21 think that I hid it so no one else could see it, but I didn't  
22 comment or say, yeah, anything with P.G. on it.

23                  MR. C. MATTHEW RITTGERS: Was that comment during --  
24 I thought I saw something where someone posted a  
25 Cincinnati.com article?

1                   JUROR NO. █: Oh, there it is. Yeah, someone did.  
2 And that's █. I ignored it. I didn't look at it. I  
3 didn't go into it. I didn't dive any further into it.

4                   MR. C. MATTHEW RITTGERS: Some of these, obviously,  
5 you responded to the comments, right? I mean, you read them  
6 and responded to people?

7                   JUROR NO. █: The ones that I think I responded to  
8 was about Juror Number █. I think the one that's when they  
9 were talking about how they don't get paid. And I said, well,  
10 you know, we get paid. I said, obviously, I'm in the federal  
11 building. It's mind numbing, mentally draining.

12                  THE COURT: Did anyone post any articles that you  
13 read?

14                  JUROR NO. █: Just that. I didn't read any articles.  
15 She posted that, and I did not touch it, did not go inside it.

16                  MR. C. MATTHEW RITTGERS: What was the comment about,  
17 "Good old P.G.," or --

18                  JUROR NO. █: Because I said that I think it was one  
19 of these, and someone said, "Good old P.G." trying to see if  
20 that was the case I was on, but they didn't respond.

21                  MR. C. MATTHEW RITTGERS: Can we see the one that you  
22 just said you hid, you didn't delete it?

23                  JUROR NO. █: I hid it because I didn't want anybody  
24 else to start commenting and just, you know, snowballing from  
25 there. I don't even know how I would find a hidden one.

1                   MR. C. MATTHEW RITTGERS: I think it should still  
2 show up --

3                   JUROR NO. █: For me?

4                   MR. C. MATTHEW RITTGERS: -- for you. I think so.

5                   JUROR NO. █: See, and then someone else here says,  
6 "Is it the P.G. Sittenfeld guy?" I didn't say anything,  
7 didn't respond, didn't post because I was told not to. I  
8 didn't know I couldn't post, you know what I'm saying?

9                   I knew I couldn't say anything about who I was on trial  
10 with or for. I didn't know I couldn't post in general, so my  
11 apologies.

12                  Let's see, when did our jury -- when did it start?

13                  THE COURT: The 21st.

14                  JUROR NO. █: There's no comment on that one. Yeah,  
15 right here. This comment has been hidden. Unhide comment.  
16 "Big P.G." is what he said.

17                  MR. C. MATTHEW RITTGERS: "Big P.G."?

18                  JUROR NO. █: And I hid it so no one else -- I'm  
19 going to hide it again, so...

20                  MR. C. MATTHEW RITTGERS: Did you have any, like,  
21 private messages with anyone, or texted jurors about --

22                  JUROR NO. █: No. The only number I have is  
23 Number █, and that's only because we would meet at Starbucks  
24 in the morning and she'd ask if I was there, and we kind of  
25 wanted to stay close after this.

1                   MR. C. MATTHEW RITTGERS: Without saying anything  
2 that happened in the deliberation room, going back to Juror  
3 Number █ was that known to you before, like, the  
4 deliberations?

5                   JUROR NO. █: No. I just gathered it myself  
6 because just some of the comments that she made, I felt like  
7 she had a deep hatred for politicians.

8                   MR. C. MATTHEW RITTGERS: Was it before the  
9 deliberations on that one?

10                  JUROR NO. █: Yes.

11                  MR. C. MATTHEW RITTGERS: So at some point before the  
12 deliberations, it was clear that she had a deep hatred for  
13 elected officials?

14                  JUROR NO. █: She was -- I guess felt like she didn't  
15 trust them, and that's basically what she said.

16                  MR. C. MATTHEW RITTGERS: That was before the  
17 deliberations even started?

18                  JUROR NO. █: Us, what, talking? No. I'm sorry.

19                  MR. C. MATTHEW RITTGERS: Oh, sorry.

20                  JUROR NO. █: It was inside. Yes, it was inside,  
21 just the comments that -- they're all correct.

22                  THE COURT: And, again, we're not going to talk about  
23 comments that were made in the jury room.

24                  MR. C. MATTHEW RITTGERS: But were there comments  
25 that she made before?

1 JUROR NO. █: No. No. No.

2 MR. C. MATTHEW RITTGERS: During the two and a half  
3 weeks of trial --

4 JUROR NO. █: No.

5 MR. C. MATTHEW RITTGERS: -- no incident?

6 JUROR NO. █: No.

7 MR. C. MATTHEW RITTGERS: You sure she would not make  
8 comments before the deliberations?

9 JUROR NO. █: No. There was no comments before.

10 MR. C. MATTHEW RITTGERS: Do you guys have anything?

11 MR. C. HENRY RITTGERS: I don't have any questions,  
12 Judge.

13 THE COURT: Very good. Ms. Glatfelter, Ms. Gaffney  
14 Painter, any questions?

15 MS. GAFFNEY PAINTER: No questions.

16 THE COURT: Thank you, ma'am. I appreciate it.

17 JUROR NO. █: Am I free to go?

18 THE COURT: You are free to go. Thank you very much.

19 JUROR NO. █: Thanks, guys.

20 (Juror No. █ excused.)

21 MR. C. HENRY RITTGERS: Before we bring in the other  
22 juror --

23 MS. GAFFNEY PAINTER: Could we wait until she steps  
24 out.

25 THE COURT: Yes.

1 MS. GAFFNEY PAINTER: And just one other thing for  
2 the record. Would you let the record reflect that she had her  
3 phone. She looked at her phone. She showed Mr. Rittgers her  
4 phone and showed the hidden post and then re-hid the post, and  
5 that was all done here in chambers.

6 THE COURT: That is correct.

7 MR. C. MATTHEW RITTGERS: But just so the record is  
8 clear, I did not see all these comments, nor do we have all  
9 these comments.

10 And while we're on the record, there were 29 different  
11 reactions, some of which were laughing, crying, likes, shocks;  
12 16 comments the first day of trial, for example. We do not  
13 know what those 16 comments were or are. Five comments and  
14 10 types of likes and reactions on this.

15 THE COURT: Mr. Rittgers, I fully intend to allow you  
16 to make your record. I would just like to get this other  
17 juror in and out.

18 MR. C. MATTHEW RITTGERS: Okay. Understood. Thanks,  
19 Judge.

20 MS. GLATFELTER: Your Honor, just so we understand  
21 the ground rules for this.

22 So I understand the first inquiry is whether there was  
23 any extraneous communication, and then and only then are there  
24 other communications about what underlies that?

25 THE COURT: Extraneous evidence, yes.

1                   MS. GLATFELTER: Right, extraneous evidence, but it's  
2 not just are you a biased person off of that, right? Because  
3 that seems to be where this is going.

4                   MR. C. HENRY RITTGERS: If I may?

5                   THE COURT: Wait. Mr. Schuett, you had something?

6                   MR. SCHUETT: Question, Your Honor. In *Cunningham*  
7 *versus Shoop*, which is a Sixth Circuit case from January 2022,  
8 which is 23 F.4th 636, the Sixth Circuit says, "We have  
9 treated a court's failure to hold a *Remmer* hearing as a due  
10 process violation closely related to but distinct from the  
11 underlying question of juror bias, in violation of the Sixth  
12 Amendment right to an impartial jury." It says, "See *Ewing*."

13                  If you look at *Ewing*, they talk about affording the  
14 defendant an opportunity to show actual prejudice through a  
15 hearing.

16                  So then the question is, how do we reconcile that issue?  
17 If we're not allowed to show actual prejudice through this  
18 process, then we're not going to be able to address the Sixth  
19 Amendment issue, which then we might have a due process  
20 violation, according to *Ewing*.

21                  THE COURT: So I'm going to allow you to explore  
22 whether she had some bias coming in, or whether she wrongfully  
23 answered some jury questionnaire question.

24                  But, again, I'm not going to allow you to get into  
25 deliberations in the jury room. So you can explore if she's

1       got some basis for bias as a result of things outside the  
2 courtroom.

3                    MR. C. MATTHEW RITTGERS: Okay.

4                    THE COURT: Let's bring in the other juror.

5                    Let's go off the record.

6                    (Off the record.)

7                    THE COURT: So Juror Number █ is in chambers now. I  
8 want to start with something I've already told Juror █ outside  
9 chambers, which is you're absolutely not here because you're  
10 in any kind of trouble. I want to make that very clear.

11                  Another juror posted some information, and we want to  
12 follow up a little bit, and defense counsel wants to follow up  
13 a little bit on that.

14                  But I want to make very clear to you first, as I said,  
15 you're not in any trouble. And second, the other thing I want  
16 to make clear to you is this is not to allow an inquiry into  
17 conversations that occurred in the jury room. We're not going  
18 to go over conversations that occurred in the jury room.

19                  This is to allow counsel to explore whether there were  
20 outside influences that may have been in play with regard to  
21 you and your participation in this case. So that's all it's  
22 about.

23                  And I'm going to have Scott swear you in in a second.  
24 Mr. Rittgers is going to ask you some questions. Again, I  
25 want to be very clear, you're not in any trouble, all right.

1       I'm sure this is stressful, and I apologize. This typically  
2 is not part of the process, but...

3                     (JUROR NO. █ sworn.)

4                     MR. C. MATTHEW RITTGERS: Hi. I'm sorry to stress  
5 you out, and you really are not in trouble. Can you promise  
6 me you'll be brutally honest with me with these answers?

7                     JUROR NO. █: I will be brutally honest.

8                     MR. C. MATTHEW RITTGERS: Can you just tell us, like,  
9 your thoughts about elected officials and politicians in  
10 general?

11                  JUROR NO. █: I don't -- it's not my area of  
12 expertise, so I don't really have opinions about elected  
13 officials.

14                  MR. C. MATTHEW RITTGERS: Juror Number █ made a post  
15 that said that you hated any elected official.

16                  JUROR NO. █: I said no such thing, and I don't even  
17 feel that.

18                  MR. C. MATTHEW RITTGERS: Can you please just be  
19 honest?

20                  JUROR NO. █: I am being brutally honest. I'm  
21 serious. I never said that.

22                  MR. C. MATTHEW RITTGERS: You're not in trouble. It  
23 won't -- you're not --

24                  JUROR NO. █: I'm not -- I'm not -- I am being  
25 brutally honest. Trust me. I'm only nervous because I feel

1 like I'm in the principal's office and I wasn't smoking. It  
2 wasn't me. I'm just using the bathroom.

3 MR. C. MATTHEW RITTGERS: I mean, just might be like  
4 some things you've read, and --

5 JUROR NO. █: No. Absolutely not. I promise you.

6 MR. C. MATTHEW RITTGERS: Are you nervous in here? I  
7 mean, I --

8 JUROR NO. █: Like I said, I do have that feeling  
9 of --

10 MR. C. MATTHEW RITTGERS: Yeah, it's hard not to, I  
11 know.

12 JUROR NO. █: Can I just say something?

13 MR. C. MATTHEW RITTGERS: Yeah.

14 JUROR NO. █: I have no clue why she would say that.  
15 Can I say something else too?

16 MR. C. MATTHEW RITTGERS: Yes. Please.

17 JUROR NO. █: You know, the judge gave us  
18 instructions not to talk to people. He said don't make any  
19 decisions ahead of time. Listen only to the evidence that's  
20 in the court, and don't even think about what decision you're  
21 going to make until you're back in the deliberation room.

22 I followed every single one of those, I did, and not to  
23 talk to anybody about or to have any kind of outside  
24 information.

25 Not only me, I made my husband and daughter not watch the

1 news or be on their phones or follow social media, I did, and  
2 they followed that, so...

3 MR. C. MATTHEW RITTGERS: Thank you for that. Before  
4 this, before you were called to jury duty, if someone said a  
5 politician, you didn't have any thoughts that came to mind?

6 JUROR NO. ■: No. I think politicians are like  
7 anybody else, that you have politicians who are honest and  
8 good at their job, and politicians who aren't. That's true in  
9 every single field.

10 MR. C. MATTHEW RITTGERS: Sure.

11 JUROR NO. ■: And I don't feel like -- I don't even  
12 know the defendant. I'm not -- I don't live in the City of  
13 Cincinnati, and I don't really follow politics at all, so I  
14 know nothing about anything that went on.

15 I didn't even understand the charges, so when you brought  
16 those and gave us the explanation, each one, I'm like I'm so  
17 glad you did that because I don't know what that is, so no.

18 Do I think that that there's a lot of money involved with  
19 the campaign financing stuff? I do. And I think that of  
20 other professions as well, and that, you know, sometimes some  
21 of the people -- I had no bias about the defendant, though, or  
22 anybody until I would have to look at all the evidence and  
23 stuff.

24 But I do think, because I have seen myself -- not in  
25 politics but in other fields -- that when there's a lot of

1 money involved, people often have ulterior motives. I don't  
2 think I even shared that feeling that I have. I don't think I  
3 shared that in the deliberation room either.

4 But, you know, let me be brutally honest, I do think that  
5 sometimes when there's money involved -- and that's true not  
6 just of politicians. I think that's true in every profession  
7 is that not -- I mean, just like you have honest and dishonest  
8 people in every profession, does that count as bias?

9 MR. C. MATTHEW RITTGERS: It's up to the judge.

10 JUROR NO. █: Yes. Exactly. I have no bias  
11 whatsoever towards anybody in the trial, so the witnesses, the  
12 defendant, the lawyers, I promise you.

13 MR. C. MATTHEW RITTGERS: You're not in trouble. If  
14 you walked in here and you said, you know, I've never liked  
15 politicians. You're not in trouble. Nobody knows that.  
16 That's why we're doing this in chambers.

17 JUROR NO. █: I don't even feel that way, though.  
18 I'm not sure I've even met any politicians.

19 MR. C. MATTHEW RITTGERS: Just from what you've read  
20 and seen on the news?

21 JUROR NO. █: I don't watch the news. That's why I'm  
22 here, isn't it? Because if I watched the news, I'd know all  
23 about this case. We don't even have cable TV, so -- I do look  
24 at national news, but I don't look at the local news.

25 MR. C. MATTHEW RITTGERS: You know how the jurors

1       came back one by one in the judge's chambers before voir dire?  
2       You weren't one of those folks?

3                   JUROR NO. █: No.

4                   MR. C. MATTHEW RITTGERS: I don't even remember.  
5       There were like 23 jurors.

6                   JUROR NO. █: I feel like the area of politics is  
7       totally outside -- I'm an engineer. I have nothing to do with  
8       politicians. It's not an area of interest to me. I don't sit  
9       around and debate with people about anything, I mean, not like  
10      political issues and stuff.

11         I'm just not -- it's not an area -- like medicine, I have  
12      nothing to do with medicine either, so just politics isn't  
13      something that's in my area of interest.

14                  MR. C. MATTHEW RITTGERS: Did you have any -- you  
15      weren't aware of any of the social media posts?

16                  JUROR NO. █: Absolutely not. I thought we weren't  
17      allowed to do that. And I don't even have a social media  
18      so... so I am very unsure as to why she would even say that.  
19      And I don't want to talk about what we talked about.

20                  THE COURT: I don't want you to either.

21                  JUROR NO. █: But can I just say that I followed  
22      every single rule you told us to do. I did. And I am an  
23      honest person, and there would not even be any reason for me  
24      to lie.

25                  THE COURT: What kind of engineer?

1 JUROR NO. █: Aerospace.

2 THE COURT: I'm an electrical engineer.

3 JUROR NO. █: Are you?

4 THE COURT: Yeah, before I was a lawyer.

5 Mr. Rittgers, any further questions?

6 MR. C. MATTHEW RITTGERS: No.

7 THE COURT: Ma'am, I am deeply apologetic. I've  
8 never had a situation like this, and I'm so sorry it happened  
9 to you.

10 I know it's probably going to leave a bad taste in your  
11 mouth about the experience here, but please know that you have  
12 the sincere thanks of the Court and the sincere appreciation  
13 for your willingness to provide some additional insight.

14 As Mr. Rittgers said, and as I've said, this is not in  
15 any way about you being in any kind of trouble, it's just when  
16 certain things are said, we had to create a record around  
17 that.

18 So I -- I'm so sorry this happened, but I do  
19 appreciate -- and I should have asked the United States, any  
20 questions?

21 MS. GLATFELTER: No, just thank you for your service.

22 JUROR NO. █: Thanks. And I think that all of you  
23 guys did a great job. I've enjoyed myself, because I've never  
24 had a court experience before, and I did work so hard on  
25 trying to understand our juror instructions. I had no bias.

1                   THE COURT: To the extent you did, it was  
2 Mr. Rittgers' fault.

3                   (Laughing.)

4                   JUROR NO. █: Well, I mean, you know, we're not  
5 lawyers, so it's hard for us to understand that. And we  
6 hammered at it over and over and over, and I'm not even  
7 allowed to talk about it.

8                   THE COURT: All right. Very good. Thank you very  
9 much, ma'am, for your testimony. I appreciate it, and you are  
10 now free to go, with the Court's thanks.

11                  JUROR NO. █: Thank you.

12                  MS. GAFFNEY PAINTER: Thank you.

13                  (Juror No. █ excused.)

14                  THE COURT: Mr. Rittgers, I cut you off earlier in  
15 the interest of getting testimony from Juror Number █, but if  
16 there's additional information you'd like to put on the  
17 record, now would be an appropriate time to do so.

18                  MR. C. MATTHEW RITTGERS: We don't have, Your  
19 Honor -- we have one set of screen shots that consists of  
20 three pages, which would be three pages of comments as  
21 printed.

22                  THE COURT: Yes, I will endeavor to get the remainder  
23 of the comments that are reflected on what's in your left  
24 hand.

25                  MR. C. MATTHEW RITTGERS: Thank you. Will the

1 record -- can we incorporate what we have into the record?

2 THE COURT: Yes. I've kept a copy of everything I've  
3 given you, and it will be part of the record.

4 MR. C. MATTHEW RITTGERS: Okay. And one -- there was  
5 a comment on July 7th, which was last night, around 7:00 p.m.,  
6 where Juror Number █ said, quote, Number █, you are on my damn  
7 nerves. And there were four comments.

8 And one of the comments was that Juror Number █ "hates  
9 anyone who shares the same profession as our person on trial,  
10 and that's not cool," which the defense believes indicates a  
11 bias, which is Juror Number █ hates all elected officials, and  
12 I just want to make sure the record reflects that.

13 THE COURT: Very good. Does the government wish to  
14 place anything on the record?

15 MS. GLATFELTER: No, Your Honor.

16 THE COURT: Mr. Rittgers?

17 MR. C. HENRY RITTGERS: How will the document be  
18 identified? Will it be a court exhibit?

19 THE COURT: Yeah. That's probably a good idea, call  
20 it Court Exhibit 1 and Court Exhibit 2 are the two that were  
21 used, and I'll try to get a more fulsome set of the comments,  
22 although she may be frenetically hiding them all right now as  
23 we speak.

24 MS. GLATFELTER: Will this be under seal, we assume?

25 THE COURT: I think it probably should be.

1 MR. C. MATTHEW RITTGERS: No objection.

2 MR. C. HENRY RITTGERS: No objection.

3 THE COURT: Yes. So we'll file this under seal, all  
4 this post verdict stuff. Anything further?

5 MR. C. MATTHEW RITTGERS: Do you know deadlines on  
6 motions?

7 MR. SCHUETT: Fourteen days.

8 MR. LAZARES: Is there going to be briefing on this  
9 hearing?

10 THE COURT: I assume, to the extent you wanted to  
11 include it as part of your -- although this needs to be  
12 sealed, I guess, if it's in the briefing, right? If we're  
13 sealing this, we should seal references to it in the briefing.

14 To the extent you believe that any of the juror  
15 information gives rise to a basis for mistrial or acquittal,  
16 could you do a separate brief on that issue as a basis for  
17 acquittal and mistrial.

18 And then you will have your standard Rule 29 motion, and  
19 then there will be a supplemental one that will be filed under  
20 seal with regard to jury conduct issue.

21 MR. SCHUETT: Absolutely. Your Honor, a question,  
22 since this arose before. Do we need to file to ask leave to  
23 do that, or should we just do that now, because prior  
24 instruction was file the motion for leave to file it under  
25 seal, that's what gave rise to the Cincinnati Enquirer.

1 COURTROOM DEPUTY: You just got leave.

2 MR. SCHUETT: I just wanted to make sure we are clear  
3 so that there wasn't any confusion.

4                   COURTROOM DEPUTY: And you'll send it to me, like you  
5 have with other sealed ex parte stuff.

6 MR. LAZARES: The Remmer hearing motion is motion one  
7 that we are going to file, correct? Is that what you call it?

8 THE COURT: It's up to you.

9 MR. LAZARES: Okay.

10 THE COURT: There's your standard Rule 29 based on  
11 trial issues, and then there will be a separate -- I think  
12 it's a Rule 29, I don't even know, but separate post-verdict  
13 motion that related to juror misconduct issues, which will be  
14 filed under seal.

15 As I said, I've not really been down this road before, so  
16 I don't even know if it's called a Rule 29, but I would assume  
17 it's some kind of a motion for an acquittal or a new trial.

18 And then the government will have opportunity to respond.

19 MR. LAZARES: Normal briefing schedule?

20 THE COURT: Yes. Anything else anyone wants to put  
21 on the record before we go off the record?

22 MS. GAFFNEY PAINTER: No. Thank you, Your Honor.

23 MR. C. HENRY RITTGERS: No. Thank you, Your Honor.

24 THE COURT: All right. We're off the record.

25 (Proceedings concluded at 3:43 p.m.)

## C E R T I F I C A T E

- - -

I, M. SUE LOPREATO, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ M. Sue Lopreato  
M. SUE LOPREATO, RMR, CRR  
Official Court Reporter

July 13, 2022

I N D E X

## EXHIBITS

Court Exhibit No. 1  
Court Exhibit No. 2